

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CANYON PARK SEE STORE, INC., a
Washington corporation, and AKBARALI
“SAM” SAMANANI, an individual,

Plaintiffs,

v.

LAKHA INVESTMENT CO., LLC, a
Washington limited liability company, AMIN S.
 (“ANDY”) LAKHA, an individual, EMERALD
CITY CONSTRUCTION, INC., a Washington
corporation, KEYBANK OF WASHINGTON,
d/b/a KEYBANK NATIONAL
ASSOCIATION, a Washington corporation,
JOHN DOE CORPORATION, the corporate
identity or assignee of the rights and liabilities
of Keybank National Association, if any,
relevant to this action, and ARCO PRODUCTS
COMPANY, a Delaware corporation,

Defendants.

Bankruptcy Case No. 02-21702

Adversary Proceeding No.

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND
DAMAGES**

COMPLAINT

COME NOW the Plaintiffs, Canyon Park See Store, Inc. and Akbarali “Sam” Samanani, by and through the undersigned counsel, and do hereby make the following Complaint against the Defendants:

1 **I. JURISDICTION AND PARTIES**

2 1.1. This Court has jurisdiction pursuant to 28 U.S.C.A. §157 as the facts
3 alleged herein set forth a core proceeding.

4 1.2. Plaintiff Canyon Park See Store, Inc. ("CPSS") is a Washington
5 corporation and is the debtor in the above-encaptioned bankruptcy proceeding under
6 Chapter 11 of the United States Bankruptcy Code.

7 1.3. Plaintiff Akbarali "Sam" Samanani ("Samanani") is the principal
8 shareholder of Canyon Park See Store, Inc. As will be more fully alleged below,
9 Samanani and CPSS are the victims of a fraud by the defendants Lakha Investment Co.,
10 LLC, Emerald City Construction Co., Inc. and Andy Lakha ("the Lakha Defendants")
11 designed to use Samanani and CPSS as "fronts" for a scheme to obtain excessive
12 financing for the construction and opening of a gas station, convenience store, and car
13 wash in Canyon Park ("the Canyon Park Station"), which financing was siphoned by
14 the defendants for their own uses and profits, leaving CPSS and Samanani destitute,
15 unable to service debt, and bankrupt.

16 1.4. Defendant Lakha Investment Co., LLC ("LIC") is a Washington limited
17 liability company that claims principal ownership of the shares of CPSS and/or the
18 exclusive right to exercise the voting power of the shares. As will be more fully
19 alleged below, LIC and/or its principal owner, defendant Amin S. Lakha, made
20 misrepresentations of fact to Samanani and others relating to the value of the land and
21 anticipated business income that would be generated by the Canyon Park Station for the
22 purpose of obtaining financing from defendant KeyBank National Association
23 ("KeyBank"). The debt owed by CPSS to KeyBank is the largest single debt owed by
24 CPSS. As will be more fully alleged below, the funds disbursed by KeyBank for the
25 alleged benefit of CPSS were in reality appropriated by LIC, Lakha, and/or defendant
26 Emerald City Construction, Inc., a Washington corporation owned and/or controlled by
27 Lakha, for their own uses and benefits, leaving CPSS without sufficient working capital
28 and with unsustainable debt.

29 1.5. Defendant Emerald City Construction Co., Inc. ("Emerald City") is, on
30 information and belief, a Washington corporation wholly owned and/or controlled by

1 Lakha that bid and built the Canyon Park Station. As will be more fully alleged below,
2 Emerald City, presumably at Lakha's behest, prepared a fraudulent and grossly inflated
3 cost schedule for construction of the Canyon Park Station and submitted and accepted
4 payment for grossly inflated construction charges. Emerald City also failed to
5 adequately construct the Canyon Park Station's facilities, which among other things led
6 to severe access problems that have impacted CPSS's ability to generate revenues from
7 the Canyon Park Station.

8 1.6. Defendant Amin S. "Andy" Lakha ("Lakha") is, on information and
9 belief, the controlling shareholder of LIC and Emerald City and a director and officer
10 of both companies. Lakha acted for himself and directed the fraudulent actions of LIC
11 and Emerald City that are more fully alleged herein. He therefore has personal liability
12 for the actions of LIC and Emerald City alleged herein.

13 1.7. Defendant Key Bank of Washington d/b/a KeyBank National Association
14 ("KeyBank") is a Washington banking and/or lending institution. KeyBank is the
15 lender that provided the financing for the land purchase and facilities construction for
16 the Canyon Park Station. Keybank is a secured creditor of CPSS and holds personal
17 guarantees from Lakha and Samanani relating to the amounts financed. KeyBank is
18 currently threatening foreclosure and is expected to seek relief from stay to complete
19 the foreclosure. As will be more fully alleged below, KeyBank failed to diligently
20 investigate the true costs of construction and the estimated earnings potential of the
21 Canyon Park Station proffered by the Lakha Defendants. Had KeyBank exercised due
22 diligence rather than accepting the representations of the Lakha Defendants at face
23 value, it would have never extended the degree of financing that it did. KeyBank's own
24 recently commissioned appraisal, conducted in anticipation of a foreclosure sale,
25 demonstrates that the appraisal materials presented by the Lakha Defendants were not
26 "market oriented."

27 1.8. Defendant John Doe Corporation ("JDC") is a fictitious corporation. On
28 information and belief or in alternative pleading, JDC is the true corporate identity of
29 KeyBank National Association and/or is the assignee of the rights and liabilities of
30 KeyBank National Association with respect to the CPSS transaction.

1.9. Defendant Arco Products Company (“ARCO”) is a Delaware corporation doing business in Washington State. ARCO is a major creditor of CPSS. ARCO’s claims against CPSS arise out of advances it made for pumps and other facilities at the Canyon Park Station. As will be more fully alleged below, ARCO provided, or caused to be provided, defective equipment and software, specifically the cash acceptors known as PIC machines, that despite repeated efforts by CPSS to obtain assistance and correction from ARCO and its required vendors, never functioned properly. These defective PIC machines caused CPSS to suffer hundreds of thousands of dollars in lost revenues and required CPSS to abandon its relationship with ARCO and to “re-brand” to Chevron at a cost of approximately \$100,000.

II. COMMON FACTS

2.1. CPSS and Samanani re-allege the preceding allegations of the Complaint.

2.2. In 1999, Samanani was introduced to Lakha by a mutual acquaintance, Abdul Lalani (“Lalani”) for a possible business relationship. Lakha presented himself as the “King of C-Stores (gas station convenience stores) in Washington.” Indeed, Lakha has made a fortune over the years developing, constructing, owning and managing gas station convenience stores. Lakha proposed a business plan to Samanani whereby Samanani and Lalani would purchase various gas station C-stores developed by Lakha’s companies at a “loan to value price,” meaning that Samanani’s and Lalani’s investment would be approximately \$100,000 per project to cover inventory and soft costs such as environmental reports and broker commissions.

2.3. Initially, Samanani and Lalani paid \$100,000 into escrow for Lakha’s account and began operating a gas station C-store in Marysville, Washington. The original plan was for Samanani and Lalani to also operate gas station C-stores in the Ballinger neighborhood and the planned Canyon Park Station, for which Samanani also paid another \$100,000 deposit. After commencing business in Marysville, Samanani discovered that the projections Lakha offered to induce him into agreeing to buy the Marysville C-store were exaggerated. Samanani requested the return of his money and

1 cancellation of the deals, but Lakha refused and threatened to keep all of the money
2 Samanani had paid into escrow because of Samanani's alleged "breach."

3 2.4. Knowing that his initial investment was at risk, Samanani bowed to
4 pressure from Lakha and agreed to allow Lakha and Lalani to use him as the nominal
5 owner in order to obtain financing for the Canyon Park Station. Lalani or his attorneys
6 then formed Canyon Park See Store, Inc. and Lalani served as the primary manager of
7 the business until late 2001, when Samanani took over to try and save the business. In
8 addition to the pressure Lakha applied, he also provided Samanani with appraisal
9 documentation that grossly inflated the value of the raw land on which the Canyon Park
10 Station would be built and the income potential for the business. Lakha was also the
11 owner of the raw land on which the Canyon Park Station would be built and had
12 allegedly purchased that land for \$1.2 million, a price that KeyBank's own recent
13 appraisal calls "not market oriented." On information and belief, Lakha's prior
14 "purchase" of this land for \$1.2 million, if indeed it was actually made, was the result
15 of unrelated business pressures and was not an arms' length transaction. The appraisal
16 commissioned by Lakha declared that the raw land had a value of more than \$1.5
17 million, an appraisal upon which KeyBank subsequently relied in providing financing
18 ostensibly for the Canyon Park Station. In reality, the land has a value of less and \$1
19 million.

20 2.5. At Lakha's behest, Emerald City provided a cost schedule for construction
21 of the Canyon Park Station of more than \$1.7 million plus an additional \$200,000 for
22 "soft costs" such as engineering, permitting and other miscellaneous costs. That
23 figure, and the alleged Marshall Valuation Service estimates utilized by Lakha's
24 appraiser were grossly exaggerated. In fact, KeyBank's recent appraisal indicates that
25 the true Marshall Valuation Service estimate for construction is a mere \$620,000.
26 Lakha presented these fraudulently inflated estimates to Samanani and KeyBank, both
27 of whom relied upon these estimates. Lakha neither requested nor obtained any
28 competitive bids for the construction of the Canyon Park Station.

29 2.6. Lakha also presented Samanani and KeyBank with an inflated appraisal of
30 the anticipated revenues the Canyon Park Station would likely produce. On the whole,

1 the Lakha-commissioned appraisals and analyses proposed a total fee simple value for
2 the Canyon Park Station of almost \$4 million prior to “stabilized operations” and \$4.3
3 million “after stabilization.”

4 2.7. Samanani relied on all of Lakha’s fraudulent misrepresentations in
5 agreeing to become the nominal shareholder of CPSS and in the hope that he would
6 eventually recoup the original investment he had made with Lakha. In agreeing to
7 become a personal guarantor on the loan from KeyBank, which KeyBank required,
8 Samanani also relied on Lakha’s agreement to also be a personal guarantor.

9 2.8 KeyBank relied on Lakha’s fraudulent misrepresentations in agreeing to
10 extend financing for the Canyon Park Station, in the form of a land purchase and
11 construction loan of more than \$2.7 million. On information and belief, KeyBank did
12 not perform a reasonable due diligence on the true value of the land or the revenue
13 potential from the Canyon Park Station and instead relied solely on the appraisals
14 commissioned and proposed by Lakha. In any event, Samanani and CPSS were the
15 ultimate victims of Lakha’s fraud and/or KeyBank’s negligence.

16 2.9. As part of the construction and business ramp-up, CPSS, at Lakha’s urging
17 and with Lakha’s assistance, secured additional financing of approximately \$400,000
18 from Defendant ARCO as part of a “branding” arrangement and franchise agreement
19 (“the Franchise Agreement”) for the Canyon Park Station. On information and belief,
20 Lakha is a former franchisee of ARCO. As part of that Franchise Agreement, ARCO
21 provided so-called PIC machines and related software and hardware, that would allow
22 customers to pay at the pump without direct intervention from store personnel. In
23 reality, the PIC machines never operated properly and provided inaccurate and
24 completely unreliable accounting numbers. In addition, the computer system connected
25 to the PIC machines repeatedly stopped working, causing delays and lost revenues.
26 Despite repeated complaints to ARCO and its vendors and reasonable efforts to secure
27 corrections to the machines and software, the PIC machines continued to present
28 unmitigable problems. The defective PIC machines and software cost the business tens
29 of thousands, if not hundreds of thousands of dollars in revenues, which caused the
30

1 Canyon Park Station to default on the debt to ARCO, which in turn resulted in ARCO
2 revoking the Franchise Agreement.

3 2.10. As part of a comprehensive series of agreements between Samanani,
4 Lakha, and LIC designed to secure Samanani's participation in the efforts to secure
5 financing for the Canyon Park Station, LIC provided \$250,000 in cash to CPSS. That
6 money was intended to bolster CPSS' financial statement and to serve as working
7 capital once the Canyon Park Station was up and running. In exchange for that
8 financing, Samanani and CPSS signed a Stock Pledge and Option Agreement ("the
9 Stock Pledge Agreement") with LIC under which, among other things, Samanani
10 pledged the shares of CPSS to LIC and gave the voting rights of those shares to LIC as
11 security for the "loan." Although the Stock Pledge Agreement, drafted by Lakha's
12 attorneys, purports to declare that the loan and Lakha's personal guarantee on the
13 KeyBank loan were provided at Samanani's and CPSS' request, the entire scheme was
14 in fact designed and promoted by Lakha.

15 2.11. Immediately after the KeyBank loan was approved and monies were
16 disbursed to Lakha, Lakha required CPSS to pay out almost the entire \$250,000 to
17 Emerald City (\$219,900) for a construction down-payment and to ARCO (\$30,000) for
18 a franchise fee. Samanani understood that these funds would be refunded to CPSS once
19 construction draws were paid by KeyBank. Samanani understood also that the ARCO
20 funds would also be applied to CPSS's account for working capital. In fact, despite the
21 fact that Keybank and ARCO paid out all of the funds approved for the construction,
22 those funds were all kept by Emerald City and never refunded to CPSS.

23 2.12. Despite the fact that the \$250,000 was never refunded to CPSS, LIC has
24 asserted that Samanani and CPSS are in default on the Stock Pledge Agreement and
25 further assert ownership of and/or control of voting rights of the stock of CPSS.
26 Conversely, CPSS and Samanani contend that, since the Lakha Defendants never
27 refunded the \$250,000, LIC has been paid in full on the Stock Pledge Agreement and
28 that any rights LIC may have once had under the Stock Pledge Agreement no longer
29 exist. In addition, the Lakha defendants now owe CPSS more than \$85,000.

1 **FIRST CAUSE OF ACTION – DECLARATORY JUDGMENT ACTION**

2 3.1. CPSS and Samanani re-allege the preceding allegations of the Complaint.

3 3.2. There currently exists an actual controversy between Samanani and LIC
4 and/or Lakha as to the ownership of and/or right to vote the shares of CPSS. This
5 dispute is a core issue for the bankruptcy proceeding because Samanani proposes
6 reorganization under Chapter 11 while Lakha and LIC oppose reorganization.

7 3.3. Determination of this controversy requires the Court to determine
8 additional legal questions such as whether Lakha and/or LIC have received payment
9 under the Stock Pledge and Option Agreement and/or whether Samanani may be
10 relieved of any obligations to LIC and/or Lakha under that agreement because of the
11 Lakha Defendants' fraudulent conduct.

12 3.4. This Court can and should determine, under the Declaratory Judgment
13 Act, 28 U.S.C. §§2201, 2202, that Samanani is the rightful owner of the stock of CPSS
14 and that he has the sole authority to decide whether CPSS should pursue reorganization
15 under Chapter 11.

16
17 **SECOND CAUSE OF ACTION – FRAUDULENT MISREPRESENTATION**

18 4.1. CPSS and Samanani re-allege the preceding allegations of the Complaint.

19 4.2. In order to induce Samanani into assuming ownership of CPSS and to act
20 as personal guarantor of the KeyBank note, the Lakha Defendants, for themselves and
21 each other, intentionally and/or negligently created or caused to create false and
22 misleading appraisals of the value of the raw land on which the gas station, convenience
23 store and car wash would be built and of the income potential of the business once
24 constructed and opened, as described above. The Lakha Defendants further created or
25 caused to create false, misleading, and exorbitant schedules of construction costs and to
26 receive monies for exorbitant construction claims, as described above. The Lakha
27 Defendants also used these inflated appraisals and cost estimates to secure financing
28 from KeyBank as described above.

29 4.3. Samanani and CPSS reasonably relied on these misrepresentations to their
30 detriment because they became riddled with unsustainable debt while the Lakha

1 Defendants siphoned off the moneys that should have gone to CPSS or that should have
2 never been loaned in the first place. As a result of the misrepresentations, Samanani
3 and CPSS have been damaged in an amount to be proved at trial, but in no event less
4 than \$1 million.

5 4.4. These claims are core to the bankruptcy proceeding because the ability of
6 CPSS to successfully maintain a plan of reorganization under Chapter 11 depends in
7 part on the recovery of damages from the Lakha Defendants.

8
9 **THIRD CAUSE OF ACTION – NEGLIGENT LENDING**

10 5.1 CPSS and Samanani re-allege the preceding allegations of the Complaint.

11 5.2. Defendant KeyBank negligently failed to conduct a reasonable due
12 diligence prior to financing the Canyon Park Station. On information and belief,
13 KeyBank's judgment may have been impaired by its previously cozy relationship with
14 the Lakha Defendants and/or other factors yet to be discovered. On information and
15 belief, KeyBank relied upon and/or failed to adequately question the false and
16 misleading appraisal information offered by the Lakha Defendants. If KeyBank had
17 conducted a reasonable due diligence, it would not have loaned nearly as much money
18 to CPSS, which in turn would have required the Lakha defendants to accept market
19 oriented payments for the raw land sale and the construction. A lower loan amount
20 would have enabled CPSS to obtain permanent financing to pay off the KeyBank loan,
21 which would have prevented the necessity of the bankruptcy proceeding.

22 5.3. As a result of KeyBank's negligence, CPSS and Samanani have been
23 damaged in an amount to be proved at trial but not less than \$1 million. This claim is
24 core to the bankruptcy proceeding because the ability of CPSS to successfully maintain
25 a plan of reorganization under Chapter 11 depends in part on the recovery of damages
26 from KeyBank and/or reduction in the debt owed to KeyBank.

1 **FOURTH CAUSE OF ACTION – BREACH OF CONTRACT**

2 6.1. CPSS and Samanani re-allege the preceding allegations of the Complaint.

3 6.2. ARCO breached the Franchise Agreement by requiring CPSS to use
4 vendors who provided inadequate and defective PIC machines and software and by
5 failing to properly repair, service and maintain the PIC machines despite repeated
6 notice of the defects. ARCO further breached the Franchise Agreement by failing to
7 stand in for the vendors and to guarantee the vendor's failure to warrant their products
8 and services. ARCO's breach has caused substantial damages to CPSS in the form of
9 lost revenues and resulting loan interest, late payment, and default charges as well as
10 the cost of conversion and re-branding to Chevron. The amount of the damages caused
11 by ARCO's breach will be proven at trial but is, in no event, less than \$400,000.

12 6.3 The claim against ARCO is core to the bankruptcy proceeding because the
13 ability of CPSS to successfully maintain a plan of reorganization under Chapter 11
14 depends in part on the recovery of damages from ARCO and/or reduction in the debt
15 owed to ARCO.

16
17 **PRAYER FOR RELIEF**

18 Having fully set forth their claims, CPSS and Samanani respectfully request the
19 following relief:

- 20 1. A declaratory judgment that Samanani is the sole owner of the stock of
21 CPSS, has the full voting rights of those shares, and is authorized to cause
22 CPSS to seek bankruptcy protection;
- 23 2. An award of damages and/or reduction in debt, jointly and severally,
24 against the Lakha Defendants, KeyBank, and ARCO.
- 25 3. Such other relief as the Court may deem just and reasonable.
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1
2 DATED this 30th day of September 2002.
3

4 ROMERO MONTAGUE P.S.
5

6 /s/ Eric Zimbelman
7 Eric Zimbelman, WSBA #22088
8 Attorneys for Plaintiff Akbarali
9 "Sam" Samanani

10 CBG LAW GROUP, PLLC
11

12 /s/ Darrel Carter
13 Darrel B. Carter, WSBA # 20318
14 Attorneys for Plaintiff Canyon Park See
15 Store, Inc.

16 **VERIFICATION**
17

18 I, Akbarali "Sam" Samanani, declare under penalty of perjury under the laws of the State
19 of Washington and the United States of America that I am a plaintiff named in the foregoing
20 Complaint and the sole shareholder of plaintiff Canyon Park See Store, Inc. I have read and
21 understood the allegations and claims asserted therein and believe them to be true to the best of
22 my knowledge.

23 DATED this 30th day of September 2002
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25 /s/ Akbarali Samanani
26 Akbarali "Sam" Samanani
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